

# House Daily Reader

**Tuesday, February 04, 2003**

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# State of South Dakota

SEVENTY-EIGHTH SESSION  
LEGISLATIVE ASSEMBLY, 2003

337I0333

## HOUSE LOCAL GOVERNMENT COMMITTEE

### ENGROSSED NO. **HB 1073** - 01/30/2003

Introduced by: Representatives Michels, Buckingham, Burg, Cradduck, Elliott, Haverly, Hennies, Hunhoff, Kroger, LaRue, Madsen, Murschel, O'Brien, Olson (Mel), Peterson (Jim), Rhoden, Schafer, and Teupel and Senators Ham, Dempster, Knudson, Koetzle, McCracken, Moore, Olson (Ed), Reedy, Sutton (Dan), and Symens

1 FOR AN ACT ENTITLED, An Act to revise certain voting and participation requirements  
2 related to bond issues involving two or more political subdivisions.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 6-3-3 be amended to read as follows:

5 6-3-3. The governing body of each participating political subdivision may appropriate money  
6 or may also issue the general obligation bonds of the subdivision, as provided in chapter 6-8B  
7 for the authorization, issuance, and sale of bonds, for the payment of its share of the cost of the  
8 building or improvement. No bonds may be issued ~~until~~ unless provision has been made by each  
9 of the other participating subdivisions for the payment of the subdivision's share of the cost and  
10 if there are two participating subdivisions, one subdivision agrees to bear at least thirty percent  
11 of the estimated cost of the building or improvement or if there are three or more participating  
12 subdivisions, at least two of the subdivisions each agree to bear at least twenty percent of the  
13 estimated cost of the building or improvement. The bonds may be issued if a simple majority of



- 1 all voters voting on the bond issue approve the bond issue.

# State of South Dakota

SEVENTY-EIGHTH SESSION  
LEGISLATIVE ASSEMBLY, 2003

517I0453

## HOUSE HEALTH AND HUMAN SERVICES COMMITTEE ENGROSSED NO. **HB 1087** - 01/31/2003

Introduced by: Representatives Murschel, Bartling, Burg, Hargens, Heineman, Hunhoff, Klaudt, Madsen, McCoy, Miles, Nesselhuf, Peterson (Bill), Putnam, Smidt, Van Gerpen, and Van Norman and Senators Albers, Abdallah, Kloucek, Koetzle, McCracken, Moore, Reedy, and Symens

1 FOR AN ACT ENTITLED, An Act to revise the definition of qualified mental health  
2 professionals.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 27A-1-3 be amended to read as follows:

5 27A-1-3. As used in this title, the term, "qualified mental health professional", means a  
6 physician licensed pursuant to chapter 36-4 or a member of one of the professions listed in this  
7 section who has received a competency-based endorsement as a qualified mental health  
8 professional from the Department of Human Services. The following persons are eligible to apply  
9 for the endorsement:

- 10 (1) A psychologist who is licensed to practice psychology in South Dakota;
- 11 (2) A psychiatric nurse with a master's degree from an accredited education program and  
12 two years of supervised clinical experience in a mental health setting;
- 13 (3) A certified social worker with a master's degree from an accredited training program



1           and two years of supervised clinical experience in a mental health setting;

2       (4)   A person who has a master's degree in psychology from an accredited program and  
3           two years of supervised clinical mental health experience and who meets the provision  
4           of subdivision 36-27A-2 (2); ~~or~~

5       (5)   A counselor who is certified under chapter 36-32 as a licensed professional counselor  
6           -- mental health; or

7       (6)   A therapist who is licensed under chapter 36-33 as a marriage and family therapist  
8           with two years of supervised clinical experience in a mental health setting.

9       Except as provided in § 36-4-20, each qualified mental health professional shall meet all  
10      licensing and certification requirements promulgated by the State of South Dakota for persons  
11      engaged in private practice of the same profession in South Dakota. However, the private  
12      practice licensure requirement for persons referred to in subdivision (4) does not apply to those  
13      employed by the State of South Dakota or mental health centers.

# State of South Dakota

SEVENTY-EIGHTH SESSION  
LEGISLATIVE ASSEMBLY, 2003

742I0550

HOUSE JUDICIARY COMMITTEE ENGROSSED NO.

**HB 1117** - 01/31/2003

Introduced by: Representatives Michels, Adelstein, Cradduck, Cutler, Gillespie, Hunhoff, Kraus, LaRue, Madsen, Murschel, O'Brien, Olson (Mel), and Schafer and Senators Schoenbeck, Albers, de Hueck, Knudson, McCracken, Moore, and Sutton (Dan)

1 FOR AN ACT ENTITLED, An Act to provide for the enforcement of foreign domestic violence  
2 protection orders.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That chapter 25-10 be amended by adding thereto a NEW SECTION to read as  
5 follows:

6 Any domestic violence protection order issued by a court of competent jurisdiction of  
7 another state, Indian tribe, the District of Columbia, or a commonwealth, territory, or possession  
8 of the United States is enforceable as if the order was issued by a court in this state if all of the  
9 following requirements are satisfied:

- 10 (1) The respondent received notice of the order in compliance with requirements of the  
11 issuing jurisdiction;
- 12 (2) The order is in effect in the issuing jurisdiction;
- 13 (3) The issuing court had jurisdiction over the parties and the subject matter;
- 14 (4) The respondent was afforded reasonable notice and opportunity to be heard sufficient



1 to protect that person's right to due process. In the case of ex parte orders, notice and  
2 opportunity to be heard must have been provided within the time required by the law  
3 of the issuing jurisdiction; and, in any event, within a reasonable time after the order  
4 was issued, sufficient to protect the respondent's due process rights; and

5 (5) If the order also provides protection for the respondent, a petition, application, or  
6 other written pleading was filed with the issuing court seeking such an order and the  
7 issuing court made specific findings that the respondent was entitled to the order.

8 Any protection order meeting the requirements of this section is a foreign domestic violence  
9 protection order.

10 Section 2. That chapter 25-10 be amended by adding thereto a NEW SECTION to read as  
11 follows:

12 Any person entitled to protection under a foreign domestic violence protection order may  
13 file the foreign order in the office of any clerk of a circuit court in this state. The person filing  
14 the foreign order shall also file with the clerk of a circuit court an affidavit certifying the validity  
15 and status of the order and attesting to the person's belief that the order has not been amended,  
16 rescinded, or superseded by any orders from a court of competent jurisdiction. If a foreign order  
17 is filed under this section, the clerk of a circuit court shall enter the order in the law enforcement  
18 protection order database. Filing of a foreign order under this section is not a prerequisite to the  
19 order's enforcement in this state. No fee may be assessed for filing the foreign order.

20 Section 3. That chapter 25-10 be amended by adding thereto a NEW SECTION to read as  
21 follows:

22 A law enforcement officer may rely upon any foreign domestic violence protection order that  
23 has been provided to the officer by any source. The officer may make an arrest pursuant to § 25-  
24 10-13 for any violation of the foreign order in the same manner as for violation of a protection

1 order issued in this state. A law enforcement officer may rely on the statement of the person  
2 protected by the foreign order that the order is in effect and that the respondent was personally  
3 served with a copy of the order. A law enforcement officer acting in good faith and without  
4 malice in enforcing a foreign order under this section is immune from civil or criminal liability  
5 for any action arising in connection with the enforcement of the foreign domestic violence  
6 protection order.

7 Section 4. That chapter 25-10 be amended by adding thereto a NEW SECTION to read as  
8 follows:

9 Any person who intentionally provides a law enforcement officer with a copy of a foreign  
10 domestic violence protection order known by that person to be false, invalid, or not in  
11 compliance with the requirements of section 1 of this Act, or who, if served with such a  
12 protection order, denies having been served with the protection order, is guilty of a Class 1  
13 misdemeanor.

14 Section 5. That chapter 25-10 be amended by adding thereto a NEW SECTION to read as  
15 follows:

16 Failure to satisfy any of the requirements of section 1 of this Act is an affirmative defense to  
17 any prosecution for a violation of the foreign domestic violence protection order or any process  
18 filed seeking enforcement of the order in this state.



# State of South Dakota

SEVENTY-EIGHTH SESSION  
LEGISLATIVE ASSEMBLY, 2003

77110186

## HOUSE LOCAL GOVERNMENT COMMITTEE

### ENGROSSED NO. **SB 11** - 01/30/2003

Introduced by: The Committee on Local Government at the request of the Secretary of State

1 FOR AN ACT ENTITLED, An Act to revise certain provisions concerning the return and  
2 canvass of votes.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 12-20-13 be amended to read as follows:

5 12-20-13. Except as provided in § 12-20-17, the county auditor shall tabulate election  
6 returns as rapidly as received and make the result available for the information of the public, but  
7 such returns are not the official returns. The county auditor shall enter ~~such~~ the information into  
8 the central election reporting system by using ~~the state~~ any computer located in ~~the~~ a county  
9 ~~treasurer's~~ office which is properly configured and linked to the central state computer  
10 immediately following the tabulation of each precinct.

11 Section 2. That § 12-20-37 be amended to read as follows:

12 12-20-37. The secretary of state shall, at least thirty days before ~~every~~ each primary and  
13 general election, transmit to ~~the~~ each county ~~auditors of the several counties~~ auditor envelopes  
14 for all returns of votes required to be made to ~~his~~ the secretary of state's office, ~~with printed~~  
15 ~~directions on the envelopes as are deemed necessary by the State Board of Elections.~~ Printed



1 directions shall accompany the envelope for the guidance and direction of the ~~officers~~ auditor in  
2 making the returns according to law. ~~The expense of printing the envelopes shall be paid by the~~  
3 ~~state.~~

4 Section 3. That § 12-20-38.1 be amended to read as follows:

5 12-20-38.1. The county auditor shall immediately ~~make and file with~~ transmit by mail, fax,  
6 or electronic means to the secretary of state a certified copy of the official county canvass of  
7 votes prepared pursuant to § 12-20-38 which shall be used for the official state canvass. The  
8 certified copy shall bear a visible county seal. If the copy is faxed or sent by electronic means,  
9 the original certified copy shall also be mailed or hand delivered to the secretary of state. The  
10 ~~abstracts~~ certified copies shall be microfilmed to become permanent records of the State of South  
11 Dakota and be kept by the secretary of state.

12 Section 4. That § 13-7-18 be amended to read as follows:

13 13-7-18. The pollbooks shall be opened and the election results shall be canvassed by the  
14 school board at the next meeting and certificates of election shall be issued by the business  
15 manager of the district to ~~the~~ each successful ~~candidates~~ candidate and election results shall be  
16 certified to the county auditor of ~~the counties~~ each county in which the school district is located.

# State of South Dakota

SEVENTY-EIGHTH SESSION  
LEGISLATIVE ASSEMBLY, 2003

400I0219

## SENATE JUDICIARY COMMITTEE ENGROSSED NO. **SB 21** - 01/22/2003

Introduced by: The Committee on Judiciary at the request of the Department of Social Services

1 FOR AN ACT ENTITLED, An Act to revise the requirements for service of a notice of entry  
2 in an action involving abuse or neglect.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 26-8A-28 be amended to read as follows:

5 26-8A-28. Notice of entry of order of adjudication or final decree of disposition issued by  
6 the court in any action involving an abused or neglected child shall be served on the child's  
7 attorney and the child's guardian ad litem or special advocate, if any, and on all respondent  
8 parents and other respondent parties ~~in the same manner as service of the summons in the action~~  
9 ~~as provided in § 26-7A-47~~ in any manner authorized by the rules of civil procedure. The notice  
10 of entry may be served by publication in the same manner as service of the summons in the action  
11 as provided in § 26-7A-48. If the notice of entry is served by publication, the service is  
12 completed five days after the date of publication. The time for appeal commences on the day  
13 following the date of completed service of the notice of entry regardless of the manner in which  
14 the notice of entry is served.



# State of South Dakota

SEVENTY-EIGHTH SESSION  
LEGISLATIVE ASSEMBLY, 2003

400I0274

## HOUSE JUDICIARY COMMITTEE ENGROSSED NO. **SB 22** - 01/29/2003

Introduced by: The Committee on Judiciary at the request of the Department of Social Services

1 FOR AN ACT ENTITLED, An Act to revise certain provisions relating to the appearance by  
2 a parent in person, by counsel, or by telephone for a hearing to voluntarily terminate parental  
3 rights.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

5 Section 1. That § 25-5A-14 be amended to read as follows:

6 25-5A-14. The personal presence of one parent at the hearing is required for jurisdictional  
7 purposes. However, any for good cause shown, the court may permit the parent to appear  
8 telephonically. Any other person whose consent is necessary, may appear by filing with the court  
9 a power of attorney. If the Department of Social Services or a licensed child placement agency  
10 has custody of a child by written agreement of a parent with power of attorney to consent, the  
11 secretary or an authorized agent may appear and consent. Notwithstanding the foregoing  
12 provisions of this section, due regard shall be given to the Indian Child Welfare Act (25 U.S.C.  
13 Secs. 1901-1963) as in effect on January 1, 2003, if applicable.



# State of South Dakota

SEVENTY-EIGHTH SESSION  
LEGISLATIVE ASSEMBLY, 2003

400I0220

## SENATE ENGROSSED NO. **SB 27** - 01/23/2003

Introduced by: The Committee on Agriculture and Natural Resources at the request of the  
Department of Game, Fish and Parks

1 FOR AN ACT ENTITLED, An Act to classify mountain lions as big game and to allow the use  
2 of dogs in hunting mountain lions.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That subdivision (4) of § 41-1-1 be amended to read as follows:

5 (4) "Big game," all cloven-hoofed wild animals, mountain lion, and wild turkey. The term  
6 includes facsimiles of big game used for law enforcement purposes;

7 Section 2. That § 41-8-15 be amended to read as follows:

8 41-8-15. ~~No~~ Except in the hunting of mountain lions during established hunting seasons, no  
9 dog may be used in hunting ~~of~~ big game animals. A violation of this section is subject to  
10 § 41-8-18.



# State of South Dakota

SEVENTY-EIGHTH SESSION  
LEGISLATIVE ASSEMBLY, 2003

529I0293

HOUSE STATE AFFAIRS COMMITTEE ENGROSSED

NO. **SB 31** - 01/29/2003

Introduced by: The Committee on Legislative Procedure at the request of the Investment  
Council

1 FOR AN ACT ENTITLED, An Act to clarify the immunity from personal liability of certain  
2 persons discharging their responsibilities under the higher education savings plan and to  
3 provide for holding them harmless under such circumstances.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

5 Section 1. That chapter 13-63 be amended by adding thereto a NEW SECTION to read as  
6 follows:

7 The council, its members, the state investment officer, and the employees of the Division of  
8 Investment personally are immune from any and all liability for actions taken in good faith in the  
9 discharge of the council's responsibilities under the program. To the maximum extent permitted  
10 by the South Dakota Constitution, the state shall hold the council, each of its members, the state  
11 investment officer, and the employees of the Division of Investment harmless from all costs,  
12 damages, and attorneys' fees arising from claims and suits against them with respect to matters  
13 to which such immunity applies.

